HIGH COURT OF UTTARANCHAL AT NAINITAL.

First Appeal No. 105 of 2001
(Old No. 336 of 1997)

U.P. State Industrial Development,
Corporation Ltd.,
Through the Secretary. ...Appellant.

Vs.

The State of U.P.,
Through Collector, Dehradun,
And others. ..Respondents

.....

Hon'ble P.C. Verma, J.

This appeal has been field by the appellant against the judgment and decree dted 13.05.1997 passed by the Addl. District Judge/Special Judge, (E.C.Act), Dehradun in Land Acquisition Reference No. 417 of 1988, by which the learned Additional District Judge, Dehradun enhanced the compensation from Rs. 96,000/- to Rs. 1,50,000/- per acre.

Heard Sri Sharad Shrama, learned counsel for the appellant and learned Standing Counsel for the respondent.

The question which is involved in this appeal is whether the learned lower court has committed error in enhancing the compensation.

I have perused the order passed by the Additional District Judge/Special Judge (E.C.Act), Dehradun. The Sate of U.P. has issued G.O. No. C-9/23/81-708 Ra.-2 dated 06.07.1981 in regard to acquisition and assessment of the land, which clarify that the sale-deed of highest rate will be the model sale-deed for assessing the market value of the acquired land. Pursuant to the Govt. Order, Circular No. 4293-347-16(land acqu.) 37-seven/73 dated 24.04.1973 was issued which indicates that the sale-deed of highest rate will

be taken in to consideration by the Land Acquisition Officer as a model sale-deed for the assessment of acquired land.

According to the claimant, the rate fixed by the Collector is less than the market value. The disputed land is 20 kms. away from Dehradun and is adjacent to main road (Chakrota-Dehradun road). The acquired land situates towards north of the said road, which connects Dehradun to Himanchal, Hariyana and Chandigarh. Some industries are also running from the past in the said area. The disputed land is near the road where electricity, water, telephone, bus-service, school, bank post office, hospital and petrol pump, etc. are located. Learned Additional district Judge has found that the rate of the land fixed by the Land Acquisition Officer as per the settlement of 1937 and 1938, was not proper and violates the Government Orders. The Collector should have fixed the rate as per the sale deed dated 22.1.1985. The land involved in this sale deed is adjacent to the disputed land and situates in the same village Central Hope town. In the lower Court, the claimant has relied on the sale-deeds 69-C and 70C, where the land was sold @ Rs. 1,57,000/- per acre. As against this, State took stand that the compensation is just and proper and the claim of the claimant is baseless. Land Acquisition Officer found that the land of some farmers was also acquired for the same purpose, which is adjacent and connected to the disputed land and has same potential in which Rs. 1,50,000/- per acre compensation has been awarded by the Court. Therefore, considering the facts and circumstances the learned Addl. District Judge has awarded compensation @ 1,50,000/- per acre, alongwith 30% soletium and 12% additional compensation. For one year's possession interest @ 9% p.a. and till the payment of compensation 15% p.a. interest was also awarded. The order impugned is based on exemplars and based on proper reasoning. I find no illegality or infirmity in the order impugned. The compensation given

by the Addl. District Judge is justified, therefore no interference is called for. The appeal has no merit and is liable to be dismissed.

Accordingly, the appeal is dismissed. No order as to costs.

(**P.C. Verma, J.**)

December 16, 2003:
NCM: